**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Cr.Misc. No.18443 of 2008**
**SUNITA DEVI & ANR**
**Versus**
**STATE OF BIHAR**
**----------**
**WITH**
**Cr.Misc. No.19293 of 2008**
**RAMPRAVESH YADAV**
**Versus**
**STATE OF BIHAR**
**----------**

5 26-08-2008 As both these cases arise out of Khagaria Rail P.S. Case no.5 of 2008, they have been heard together and are being disposed of by this common order.

Heard Sri Prem Chandra Yadav, learned counsel for petitioners of Cr.Misc.No.18443 of 2008 and Sri Ram Balak Mahto, Sr. Advocate, learned counsel for petitioner of Cr.Misc.No.19293 of 2008, as also the learned A.P.P. for the State in both cases.

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Prosecution case is that on 21.1.2008 at 1.20 A.M. a telephonic message was received by the informant that around some 25-30 thieves were loading CST-9 Pot 60R on two trucks near Gang Quarter at Olapur Station, two constables of the R.P.F informed the villagers and they raised voice against thieves, whereupon all the miscreants left the place along with both trucks and while departing they resorted to firing. One truck driver, Rajeev Kumar who was apprehended by the police disclosed the name of petitioner Ram Pravesh Yadav who was involved in selling and purchasing of iron and petitioners, Sunita Devi and Radha Devi, were owners of the two trucks whereupon the allegedly stolen property were loaded.

So far as Ram Pravesh Yadav is concerned, it has been submitted that he is not named in the First Information Report and his name has cropped up in course of the confessional statements of the driver and khalasi and that he was neither the owner of the said trucks which were seized by the police nor he had any connection with the driver and khalasi who were arrested by the police. While admitting that the petitioner had a business of selling and purchasing iron ores from Railway and since some unknown persons were arrested while stealing railway property, he took the name of the petitioner as one of the accused.

It has further been submitted that no stolen railway property was recovered from his presence or premises. Finally it has been submitted that one Bishundeo Sah whose name has also been taken by both arrested Driver and khalasi along with the petitioner has already been granted anticipatory bail by order dated 16.2.2008 passed by the learned Sessions Judge, Khagaria in A.B.A.No.36 of 2008 and the case of the petitioner appears to be on a similar footing.

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So far as the two lady petitioners are concerned, it has been submitted on their behalf that they are house-wives and the business of plying the trucks is looked after by the driver and khalasi and the petitioners were in no way, either directly or indirectly, involved with the alleged trucks and they have been falsely implicated since the son of petitioner no.2 and brother of petitioner no.1 are on inimical terms with the police. These two petitioners have also not been named in the F.I.R. and only by virtue of being owners of the said two trucks they

have been made to figure as accused and there was nothing on record to show that they were in any way connected with the alleged theft of the alleged railway property.

Admittedly, the two female petitioners are mere owners of the trucks that were seized. The petitioner, Ram Pravesh Yadav is said to have been seen in the company with the trucks while they were fleeing but his connection with the trucks has not come to light.

Due regard being had to the facts and circumstances of the case, in the event of arrest/surrender by the petitioners, namely, Sunita Devi and Radha Devi (both petitioners of Cr.Misc.No.18443 of 2008) and Ram Pravesh Yadav ( petitioner of Cr.Misc.No.19293 of 2008 )in the court below within four weeks from today, they shall be enlarged on bail on each of them furnishing bail bond of Rs.10,000/- each with two sureties of the like amount each to the satisfaction of the learned Railway Judicial Magistrate, Khagaria in connection with Khagaria Rail P.S. Case no.5 of 2008, subject to the conditions as laid down in Section 438 (2) Cr.P.C.

**( Abhijit Sinha, J)**

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**NKS/-**